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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 SIOBHAN HAGINS, ) Case No. CV 13-7164-JPR  
11 )  
12 Plaintiff, )  
13 vs. ) **MEMORANDUM OPINION AND ORDER**  
14 ) **AFFIRMING COMMISSIONER**  
15 )  
16 CAROLYN W. COLVIN, Acting )  
Commissioner of Social )  
Security, )  
Defendant. )  
\_\_\_\_\_ )

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18 **I. PROCEEDINGS**

19 Plaintiff seeks review of the Commissioner's final decision  
20 denying her application for supplemental security income ("SSI").  
21 The parties consented to the jurisdiction of the undersigned U.S.  
22 Magistrate Judge under 28 U.S.C. § 636(c). This matter is before  
23 the Court on the parties' Joint Stipulation, filed June 23, 2014,  
24 which the Court has taken under submission without oral argument.  
25 For the reasons stated below, the Commissioner's decision is  
26 affirmed and judgment is entered in her favor.  
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1 **II. BACKGROUND**

2 Plaintiff was born on July 11, 1959. (Administrative Record  
3 ("AR") 182.) She has a bachelor's degree from the University of  
4 Southern California (AR 68-69, 221), and she has worked as a  
5 sales clerk and a secretary (AR 223).

6 On April 30, 2007, Plaintiff filed an application for SSI,  
7 which she amended on June 15.<sup>1</sup> (AR 87, 182-85, 190-91.)  
8 Plaintiff alleged she had been unable to work since December 1,  
9 2006, because of depression, suicidal ideation, anxiety,  
10 seizures, and irritable bowel syndrome. (AR 190, 216.) After  
11 her application was denied, she requested a hearing before an  
12 Administrative Law Judge. (AR 112.) A hearing was held on May  
13 14, 2008, at which Plaintiff, who was represented by counsel,  
14 testified, as did a vocational expert. (AR 55-86.) In a written  
15 decision issued August 12, 2008, the ALJ determined that  
16 Plaintiff was not disabled. (AR 94-98.) On April 16, 2010, the  
17 Appeals Council granted Plaintiff's request for review, vacated  
18 the ALJ's decision, and remanded the case for further  
19 consideration of a treating physician's opinions and Plaintiff's  
20 credibility. (AR 99-102.)

21 On August 26, 2010, a second hearing was held before the  
22 same ALJ, at which Plaintiff, who was represented by counsel,  
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24 <sup>1</sup>Plaintiff apparently also filed an application for DIB on  
25 June 15, 2007. (See AR 192-93.) The ALJ, however, addressed  
26 only Plaintiff's application for SSI (see AR 25, 94, 98), and on  
27 appeal Plaintiff contends only that she is entitled to SSI (see,  
28 e.g., J. Stip. at 2 (noting that Plaintiff applied for SSI and  
not stating that she applied for DIB), 17 & n.1 (asserting that  
Plaintiff is entitled to closed period of SSI benefits)).

1 testified. (AR 27-35.) At the hearing, Plaintiff's counsel  
2 notified the ALJ that Plaintiff was working more hours than  
3 before and amended her application to allege a closed period of  
4 disability ending on June 1, 2009. (AR 29.) In a written  
5 decision issued September 17, 2010, the ALJ again found Plaintiff  
6 not disabled during the relevant time period. (AR 20-25.) In  
7 doing so, the ALJ explicitly "incorporate[d] by reference [his]  
8 prior decision." (AR 23.) On April 3, 2012, the Appeals Council  
9 denied Plaintiff's request for review. (AR 10-14.) This action  
10 followed.

### 11 **III. STANDARD OF REVIEW**

12 Under 42 U.S.C. § 405(g), a district court may review the  
13 Commissioner's decision to deny benefits. The ALJ's findings and  
14 decision should be upheld if they are free of legal error and  
15 supported by substantial evidence based on the record as a whole.  
16 Id.; Richardson v. Perales, 402 U.S. 389, 401 (1971); Parra v.  
17 Astrue, 481 F.3d 742, 746 (9th Cir. 2007). Substantial evidence  
18 means such evidence as a reasonable person might accept as  
19 adequate to support a conclusion. Richardson, 402 U.S. at 401;  
20 Lingenfelter v. Astrue, 504 F.3d 1028, 1035 (9th Cir. 2007). It  
21 is more than a scintilla but less than a preponderance.  
22 Lingenfelter, 504 F.3d at 1035 (citing Robbins v. Soc. Sec.  
23 Admin., 466 F.3d 880, 882 (9th Cir. 2006)). To determine whether  
24 substantial evidence supports a finding, the reviewing court  
25 "must review the administrative record as a whole, weighing both  
26 the evidence that supports and the evidence that detracts from  
27 the Commissioner's conclusion." Reddick v. Chater, 157 F.3d 715,  
28 720 (9th Cir. 1996). "If the evidence can reasonably support

1 either affirming or reversing," the reviewing court "may not  
2 substitute its judgment" for that of the Commissioner. Id. at  
3 720-21.

#### 4 **IV. THE EVALUATION OF DISABILITY**

5 People are "disabled" for purposes of receiving Social  
6 Security benefits if they are unable to engage in any substantial  
7 gainful activity owing to a physical or mental impairment that is  
8 expected to result in death or which has lasted, or is expected  
9 to last, for a continuous period of at least 12 months. 42  
10 U.S.C. § 423(d)(1)(A); Drouin v. Sullivan, 966 F.2d 1255, 1257  
11 (9th Cir. 1992).

##### 12 A. The Five-Step Evaluation Process

13 An ALJ follows a five-step sequential evaluation process to  
14 assess whether someone is disabled. 20 C.F.R. § 416.920(a)(4);  
15 Lester v. Chater, 81 F.3d 821, 828 n.5 (9th Cir. 1995) (as  
16 amended Apr. 9, 1996). In the first step, the Commissioner must  
17 determine whether the claimant is currently engaged in  
18 substantial gainful activity; if so, the claimant is not disabled  
19 and the claim must be denied. § 416.920(a)(4)(i). If the  
20 claimant is not engaged in substantial gainful activity, the  
21 second step requires the Commissioner to determine whether the  
22 claimant has a "severe" impairment or combination of impairments  
23 significantly limiting her ability to do basic work activities;  
24 if not, a finding of not disabled is made and the claim must be  
25 denied. § 416.920(a)(4)(ii). If the claimant has a "severe"  
26 impairment or combination of impairments, the third step requires  
27 the Commissioner to determine whether the impairment or  
28 combination of impairments meets or equals an impairment in the

1 Listing of Impairments ("Listing") set forth at 20 C.F.R., Part  
2 404, Subpart P, Appendix 1; if so, disability is conclusively  
3 presumed and benefits are awarded. § 416.920(a)(4)(iii).

4 If the claimant's impairment or combination of impairments  
5 does not meet or equal one in the Listing, the fourth step  
6 requires the Commissioner to determine whether the claimant has  
7 sufficient residual functional capacity ("RFC")<sup>2</sup> to perform her  
8 past work; if so, she is not disabled and the claim must be  
9 denied. § 416.920(a)(4)(iv). The claimant has the burden of  
10 proving she is unable to perform past relevant work. Drouin, 966  
11 F.2d at 1257. If the claimant meets that burden, a prima facie  
12 case of disability is established. Id. If that happens or if  
13 the claimant has no past relevant work, the Commissioner bears  
14 the burden of establishing that the claimant is not disabled  
15 because she can perform other substantial gainful work available  
16 in the national economy. § 416.920(a)(4)(v). That determination  
17 comprises the fifth and final step in the sequential analysis.  
18 § 416.920; Lester, 81 F.3d at 828 n.5; Drouin, 966 F.2d at 1257.

19 B. The ALJ's Application of the Five-Step Process

20 At step one, the ALJ found that Plaintiff had not engaged in  
21 substantial gainful activity from April 30, 2007, her application  
22 date, to June 1, 2009, when she returned to work full time.<sup>3</sup> (AR  
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24 <sup>2</sup>RFC is what a claimant can do despite existing exertional  
25 and nonexertional limitations. § 416.945; see Cooper v.  
Sullivan, 880 F.2d 1152, 1155 n.5 (9th Cir. 1989).

26 <sup>3</sup>The ALJ assessed whether Plaintiff had been under a  
27 disability on or after her application date rather than her  
28 alleged onset date. (AR 22.) Plaintiff has not challenged the  
ALJ's use of the application date. (See J. Stip. at 17 & n.1.)

22.) At step two, he found that Plaintiff had the severe impairments of "bipolar Type I disorder" and "methamphetamine dependence, current sobriety." (Id.)

At step three, he determined that Plaintiff's impairments did not meet or equal any of the impairments in the Listing. (Id.) At step four, the ALJ found that Plaintiff had the RFC to perform "a full range of work at all exertional levels but with the following nonexertional limitations: [s]he has no restriction of activities of daily living[;] moderate difficulties in maintaining social functioning[; and] moderate difficulties in maintaining concentration, persistence or pace with no episodes of decompensation." (AR 23-24.) The ALJ noted that "[a]ccordingly, she can perform basic unskilled work." (AR 24.) He then concluded that under the Medical-Vocational Rules, see 20 C.F.R. pt. 404, subpt. P, app. 2, Plaintiff was not disabled. (AR 25.)

## V. DISCUSSION

Plaintiff contends that the ALJ erred by failing to provide any reasons for discounting her credibility in his September 2010 decision. (J. Stip. at 4, 7.) For the reasons discussed below, reversal is not warranted on this basis.

### A. Applicable Law

An ALJ's assessment of symptom severity and claimant credibility is entitled to "great weight." See Weetman v.

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Indeed, the ALJ's use of the application date could not have prejudiced Plaintiff because the earliest month she could have received SSI benefits was the month following the month in which she filed her application. See § 416.335.

1 Sullivan, 877 F.2d 20, 22 (9th Cir. 1989); Nyman v. Heckler, 779  
2 F.2d 528, 531 (9th Cir. 1986). "[T]he ALJ is not required to  
3 believe every allegation of disabling pain, or else disability  
4 benefits would be available for the asking, a result plainly  
5 contrary to 42 U.S.C. § 423(d)(5)(A)." Molina v. Astrue, 674  
6 F.3d 1104, 1112 (9th Cir. 2012) (internal quotation marks  
7 omitted). In evaluating a claimant's subjective symptom  
8 testimony, the ALJ engages in a two-step analysis. See  
9 Lingenfelter, 504 F.3d at 1035-36. "First, the ALJ must  
10 determine whether the claimant has presented objective medical  
11 evidence of an underlying impairment [that] could reasonably be  
12 expected to produce the pain or other symptoms alleged." Id. at  
13 1036 (internal quotation marks omitted). If such objective  
14 medical evidence exists, the ALJ may not reject a claimant's  
15 testimony "simply because there is no showing that the impairment  
16 can reasonably produce the *degree* of symptom alleged." Smolen v.  
17 Chater, 80 F.3d 1273, 1282 (9th Cir. 1996) (emphasis in  
18 original). When the ALJ finds a claimant's subjective complaints  
19 not credible, the ALJ must make specific findings that support  
20 the conclusion. See Berry v. Astrue, 622 F.3d 1228, 1234 (9th  
21 Cir. 2010).

22 Absent a finding or affirmative evidence of malingering, the  
23 ALJ must provide "clear and convincing" reasons for rejecting the  
24 claimant's testimony. Lester, 81 F.3d at 834.<sup>4</sup> If the ALJ's

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26 <sup>4</sup>In Ghanim v. Colvin, the Ninth Circuit noted that its  
27 precedent was inconsistent on whether the "clear and convincing"  
28 standard does not apply only when an ALJ makes an "actual finding  
of malingering" or also when the record merely contains "evidence  
of malingering." 763 F.3d 1154, 1163 n.9 (9th Cir. 2014). The

1 credibility finding is supported by substantial evidence in the  
2 record, the reviewing court "may not engage in second-guessing."  
3 Thomas v. Barnhart, 278 F.3d 947, 959 (9th Cir. 2002).

4 B. Analysis

5 Plaintiff acknowledges that the ALJ's August 2008 decision  
6 listed several bases for discrediting her (J. Stip. at 4-5), but  
7 she argues that because the Appeals Council "vacated" that  
8 decision, "[a]ny argument that the prior analysis should be  
9 incorporated by reference" into the September 2010 decision is  
10 "flawed" (id. at 5, 7). Plaintiff further contends that the  
11 ALJ's September 2010 decision provided "no further analysis"  
12 regarding her credibility and instead cited only "boilerplate"  
13 and "canned verbiage" without giving any specific reasons for  
14 discrediting her. (Id. at 5, 15.) Plaintiff argues that the  
15 ALJ's decision therefore must be reversed because he "failed to  
16 provide any [reasons], let alone clear and convincing reasons,"  
17 for discounting her credibility. (Id. at 7.)

18 Plaintiff's argument fails. In the September 2010 decision,  
19 the ALJ specifically stated that he was "incorporat[ing] by  
20 reference" his "prior decision," which necessarily included his  
21 previous assessment of Plaintiff's credibility. (AR 23.) And  
22 although Plaintiff generally asserts that such incorporation is  
23 somehow "flawed" (J. Stip. at 7), she cites no authority for that  
24 proposition, and in fact courts have found that an ALJ may  
25 properly incorporate an earlier decision into a later one, see,  
26 e.g., Chavez v. Astrue, 699 F. Supp. 2d 1125, 1137 n.9 (C.D. Cal.  
27 \_\_\_\_\_  
28 Ninth Circuit declined to decide the issue, however. Id.



1 2009) (finding that "ALJ incorporated by reference his prior  
2 decision of December 21, 2004, . . . and such incorporation is  
3 permissible"). As discussed below, moreover, in the August 2008  
4 decision the ALJ provided legally sufficient reasons for  
5 discounting Plaintiff's subjective complaints to the extent they  
6 were inconsistent with her RFC.<sup>5</sup> Indeed, Plaintiff has not  
7 challenged any of those specific credibility findings.

8 In a disability report, Plaintiff alleged that she was  
9 totally disabled because of her depression, suicidal ideation,  
10 anxiety, seizures, and irritable bowel syndrome. (AR 216.) The  
11 ALJ found that her seizures and irritable bowel syndrome were  
12 nonsevere (AR 22), findings that Plaintiff does not challenge.  
13 Regarding her mental impairments, Plaintiff stated that she was  
14 unable to work because she could not "concentrate or focus."  
15 (Id.) In a function report, Plaintiff asserted that she could  
16 pay attention for only five to 10 minutes but could "follow  
17 written instructions well." (AR 248.) At the May 2008 hearing,  
18 she testified that she was working 10 to 12 hours a week but  
19 could not work more because she had "a problem with patience and  
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21 <sup>5</sup>Plaintiff states that the ALJ failed to follow the Appeal  
22 Council's directive to reevaluate her credibility, but she also  
23 acknowledges that the Court determines only whether the ALJ's  
24 decision is supported by substantial evidence and free of legal  
25 error, not whether he complied with the council's remand order.  
26 (J. Stip. at 6); see Stoddard v. Astrue, No. EDCV 08-00994 AJW,  
27 2009 WL 2030349, at \*6 (C.D. Cal. July 8, 2009) (finding that  
28 "[t]he issues before the court are whether the ALJ's final  
decision is supported by substantial evidence and is free of  
legal error, not whether the ALJ complied with the Appeals  
Council's remand order" (citation omitted)). In any event, the  
Appeals Council denied Plaintiff's request for further review (AR  
10-15), suggesting that it was satisfied that the ALJ complied  
with its earlier remand order.

1 irritability," "some days [her] thought[s] raced a lot," and she  
2 had "difficulty concentrating and sitting still and staying on  
3 task." (AR 72.) Plaintiff testified that she had panic attacks  
4 "almost daily" (AR 74) and that she had suffered from "psychotic  
5 breaks" resulting in hospitalization (AR 75).<sup>6</sup> She did not  
6 testify to any physical limitations.

7 As the ALJ found, Plaintiff's daily activities were

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9 <sup>6</sup>Specifically, Plaintiff testified that she was admitted to  
10 Harbor-UCLA Medical Center twice in the fall of 2007 "under a 72  
11 hour psych hold" and that drug tests during those  
12 hospitalizations were "clean." (AR 75.) The record does not  
13 contain medical notes from a hospitalization at Harbor-UCLA  
14 Medical Center in fall 2007. (See AR 320-79.) In July 2007,  
15 however, Plaintiff's physician noted that Plaintiff had been  
16 hospitalized for one night during a "manic episode," which may  
17 have been precipitated by her psychiatric medication. (AR 448.)  
18 She noted that Plaintiff denied drug use at that time, and a  
19 urine toxicology screen was negative. (Id.; see also AR 478  
20 (physician's Dec. 2007 letter stating that in July 2007,  
21 Plaintiff "presented to Harbor PER floridly manic [with]  
22 psychotic symptoms" and had negative urine toxicology screen).)  
23 Her symptoms had showed "dramatic improvement" with psychiatric  
24 medications. (AR 448.) Records from Harbor-UCLA Medical Center  
25 do show that Plaintiff was hospitalized there in June 2003 (AR  
26 322-27), at which time a toxicology screen was positive for  
27 opiates (AR 354); August 2005, at which time she admitted to  
28 using marijuana three or four times a day and recent use of  
Vicodin and alcohol (AR 347-51); November 2005, at which time she  
admitted to alcohol and marijuana use (AR 344) and tested  
positive for cocaine and marijuana (AR 345); June 2006, at which  
time she "admit[ted] to drug use" (AR 335) and tested positive  
for amphetamines and marijuana (AR 336, 372); and August 2006, at  
which time she was noted to be using amphetamines, alcohol, and  
possibly marijuana (AR 329) and tested positive for amphetamines  
and cannabinoids (AR 371). In December 2005, moreover, Plaintiff  
voluntarily checked into Harbor-UCLA and asked for help with  
"detox" and "getting into rehab." (AR 339-41.) The record also  
showed that Plaintiff was admitted to Del Amo Hospital in  
December 2006 for treatment of psychosis, "likely drug induced";  
she denied using methamphetamine but "a urine tox screen . . .  
return[ed] positive for both THC and methamphetamine  
metabolites." (AR 304.)

1 inconsistent with her allegedly totally disabling mental  
2 impairments. (AR 96.) Plaintiff stated in a function report  
3 that she lived with her family, attended to her own personal  
4 needs, watched television, read the newspaper, cooked meals, ran  
5 errands, cleaned her house, did laundry, shopped in stores for  
6 groceries twice a month, and took walks with her daughter (AR 96,  
7 243, 245-47); she also testified at the May 2008 hearing that she  
8 was working part time as a cashier at a drug store (AR 69).<sup>7</sup>  
9 Although Plaintiff alleged that she had difficulty performing  
10 some of those activities because of her mental impairments (see,  
11 e.g., AR 244 (stating that she did not bathe frequently), 245  
12 (stating that she had trouble finishing chores and would  
13 sometimes "forget to watch the stove"), 247 (stating that she  
14 "only scan[s]" the newspaper because of poor concentration)), the  
15 ALJ largely accommodated those complaints by including in her RFC  
16 moderate limitations in concentration and social functioning and  
17 limiting her to basic unskilled work (AR 23-24, 97). In any  
18 event, even considering those alleged difficulties, her daily  
19 activities are still inconsistent with, for example, her alleged  
20 inability to concentrate for more than even five or 10 minutes.

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23 <sup>7</sup>At the May 2008 hearing, Plaintiff testified that she  
24 wasn't working more hours because she was "having difficulty  
25 maintaining the 10 to 12 hours a week" she was already working  
26 (although she also admitted that her employer had not offered her  
27 any additional hours). (AR 70.) Around that same time, however,  
28 Plaintiff reported to her medical providers that she was working  
20 or 25 hours a week. (AR 424 (Feb. 2008, working 20 hours a  
week), 425 (Jan. 2008, working 25 hours a week).) In any event,  
by June 1, 2009, Plaintiff was working enough hours that she  
later amended her application to seek SSI only up to that date.  
(AR 29.)

1 See Molina, 674 F.3d at 1113 ("Even where [claimant's] activities  
2 suggest some difficulty functioning, they may be grounds for  
3 discrediting the claimant's testimony to the extent that they  
4 contradict claims of a totally debilitating impairment.").

5 The ALJ also permissibly discounted Plaintiff's subjective  
6 complaints because the objective medical evidence did not support  
7 them. (AR 96); see Carmickle v. Comm'r, Soc. Sec. Admin., 533  
8 F.3d 1155, 1161 (9th Cir. 2008) ("Contradiction with the medical  
9 record is a sufficient basis for rejecting the claimant's  
10 subjective testimony."); Lingenfelter, 504 F.3d at 1040 (in  
11 determining credibility, ALJ may consider "whether the alleged  
12 symptoms are consistent with the medical evidence"); Burch v.  
13 Barnhart, 400 F.3d 676, 681 (9th Cir. 2005) ("Although lack of  
14 medical evidence cannot form the sole basis for discounting pain  
15 testimony, it is a factor that the ALJ can consider in his  
16 credibility analysis."). Although Plaintiff claimed to have been  
17 debilitated by depression and anxiety (AR 216), the ALJ noted  
18 that Plaintiff's psychiatric hospitalizations in fact appeared to  
19 have been primarily for treatment of "drug-induced psychosis" (AR  
20 95). For example, in December 2006, Plaintiff was hospitalized  
21 for "[p]sychosis not otherwise specified, likely drug induced"; a  
22 doctor noted that although Plaintiff denied having used  
23 methamphetamine for the preceding three months, a "urine tox  
24 screen did return positive for both THC and methamphetamine  
25 metabolites." (AR 304; see also AR 306, 372.) Moreover, a June  
26 2006 hospital record noted that Plaintiff "admit[ted] to drug  
27 use" (AR 335) and tested positive for amphetamines and marijuana  
28 (AR 336, 372), and an August 2006 record of a psychiatric

1 hospitalization noted amphetamine, alcohol, and marijuana use (AR  
2 329; see also AR 331 ("likely under influence of stimulant given  
3 h[istory]"), 371 (Aug. 2006 positive test for amphetamines and  
4 cannabinoids)).

5 As the ALJ also noted (AR 96), Plaintiff asserted that she  
6 was disabled in part because of "seizures" and irritable bowel  
7 syndrome (AR 216; see also AR 277 (stating that her stomach aches  
8 "can last all day" and she was "usually sick 5 days a week"), 279  
9 (stating that her "worst problem" was irritable bowel syndrome)),  
10 but the record contains no evidence of seizures and only rare  
11 complaints of irritable bowel syndrome (see, e.g., AR 356 (July  
12 2006, noting that Plaintiff complained of "persistent IBS  
13 symptoms"), 370 (Oct. 1998, noting past medical history of  
14 "IBS").) Plaintiff's alleged physical symptoms are also  
15 inconsistent with working 12 hours a week and some of her other  
16 activities. See Curry v. Sullivan, 925 F.2d 1127, 1130 (9th Cir.  
17 1990) (as amended) (finding that claimant's ability to "take care  
18 of her personal needs, prepare easy meals, do light housework,  
19 and shop for some groceries . . . may be seen as inconsistent  
20 with the presence of a condition which would preclude all work  
21 activity").

22 In discounting Plaintiff's credibility, the ALJ also noted  
23 that Plaintiff is a college graduate and appeared "very bright  
24 and articulate." (AR 96.) The ALJ was entitled to rely on his  
25 personal observations of Plaintiff as one factor in his overall  
26 credibility analysis. See Orn v. Astrue, 495 F.3d 625, 639 (9th  
27 Cir. 2007) (ALJ's personal observations may be used in overall  
28 evaluation of credibility but cannot form "sole basis" for

1 credibility determination); SSR 96-7p, 1996 WL 374186, at \*5  
2 (July 2, 1996) ("[T]he adjudicator may also consider his or her  
3 own recorded observations of the individual as part of the  
4 overall evaluation of the credibility of the individual's  
5 statements.").

6 The ALJ also noted that Plaintiff's testimony that she was  
7 following a 12-step recovery program was inconsistent with her  
8 testimony that she still used marijuana and alcohol occasionally.  
9 (AR 95-96, see also AR 73-74 (admitting to using marijuana "maybe  
10 once a month" and "minimal" use of alcohol).) Although the ALJ  
11 is entitled to rely on inconsistencies in Plaintiff's testimony  
12 in discounting her credibility, see Smolen, 80 F.3d at 1284, here  
13 the ALJ's reasoning was not clear and convincing. Plaintiff's  
14 honesty in confessing that she was not always compliant with the  
15 program does not reflect adversely on her credibility. See  
16 Russell v. Astrue, No. 11-CV-1656-W JMA, 2013 WL 941792, at \*15  
17 (S.D. Cal. Feb. 15, 2013) (finding that ALJ improperly discounted  
18 credibility based on plaintiff's alcoholism when "the record  
19 reflects that Plaintiff has consistently been open and honest  
20 about his alcohol consumption"), accepted by 2013 WL 941790 (S.D.  
21 Cal. Mar. 11, 2013); Kimbrough v. Astrue, No. 1:11-CV-01410-SKO,  
22 2013 WL 268700, at \*9 (E.D. Cal. Jan. 23, 2013) (finding that ALJ  
23 improperly discounted credibility based on history of illegal  
24 drug use when plaintiff did not make inconsistent statements  
25 about past drug use). Because the ALJ provided other legally  
26 sufficient reasons for discounting Plaintiff's credibility,  
27 however, any error was harmless. See Carmickle, 533 F.3d 1155,  
28 1162-63 (9th Cir. 2008) (ALJ's reliance on erroneous reasons for

1 adverse credibility determination harmless when substantial  
2 evidence supported determination and errors did not negate its  
3 validity).

4 This Court may not second-guess the ALJ's credibility  
5 finding simply because the evidence may have been susceptible of  
6 other interpretations more favorable to Plaintiff. See  
7 Tommasetti v. Astrue, 533 F.3d 1035, 1039 (9th Cir. 2008). The  
8 ALJ reasonably and properly discredited Plaintiff's testimony  
9 regarding the severity of her symptoms and gave clear and  
10 convincing reasons for his adverse credibility finding. Reversal  
11 is therefore not warranted.

#### 12 VI. CONCLUSION

13 Consistent with the foregoing, and pursuant to sentence four  
14 of 42 U.S.C. § 405(g),<sup>8</sup> IT IS ORDERED that judgment be entered  
15 AFFIRMING the decision of the Commissioner and dismissing this  
16 action with prejudice. IT IS FURTHER ORDERED that the Clerk  
17 serve copies of this Order and the Judgment on counsel for both  
18 parties.

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22 DATED: October 30, 2014

  
\_\_\_\_\_  
JEAN ROSENBLUTH  
U.S. Magistrate Judge

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25 \_\_\_\_\_  
26 <sup>8</sup>This sentence provides: "The [district] court shall have  
27 power to enter, upon the pleadings and transcript of the record,  
28 a judgment affirming, modifying, or reversing the decision of the  
Commissioner of Social Security, with or without remanding the  
cause for a rehearing."